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PATENTS

1. New Science and Technology Progress Law Goes into Effect: China's new Science and Technology Progress Law went into effect as of July 1, 2008. The law aims to implement China's IPR strategy, protecting IPR and encouraging self-innovation. Specific measures include clarifying the ownership of IPR obtained through government-financed programs, encouraging financial institutions to lend capital to develop new IPR, and supporting the development of high technology. According to this law, researchers in government-sponsored science programs will own the rights to invention patents, software, layout designs of integrated circuits, and new plant varieties, except for those items related to national defense and national security, or major social issues and public interest).



(Source:

http://www.sipo.gov.cn/sipo2008/yw/2008/200806/t20080623_407781.html, June 25, 2008.)

2. National People's Congress Committee Meets to Discuss Patent Law Revision: On June 27, the Education, Science, Culture and Health Committee of the National People's Congress met to discuss revision of the patent law. Mr. Tian Lipu, Director of State Intellectual Property Office, sought to incorporate the following in the new law: achieve a workable patent system; tighten the criteria for granting a patent; protect genetic resources and traditional knowledge; effectively protect patent rights; regulate abuse of patents; improve the compulsory-license system; and simplify the patent-invalidation procedure. By August, the State Council hopes to provide the revision draft to the Standing Committee of the Nation People's Congress.

(Source:

http://www.sipo.gov.cn/sipo2008/yw/2008/200806/t20080630_409250.html, June 30, 2008.)

3. Patent Law Revision to Address Malicious Litigation: On February 21, 2005, Wöhner (Beijing) Electric Co., Ltd. filed suit against the Beijing Mingri Electric Equipment Co., Ltd. for design-patent infringement. In response, Mingri requested invalidation of Wöhner's patents. The State Intellectual Property Office invalidated all of Wöhner's patents because Wöhner advertised the products before it filed for patent protection. As a result, on July 23, 2007, Wöhner withdrew its complaint. However, on October 8, 2007, Mingri sued Wöhner in Beijing No.2 Intermediate Court, alleging malicious litigation and claiming RMB 200,000 in damages, but lost. Zhao Lihui, a judge of the IPR tribunal of the Beijing No.2 Intermediate Court noted that Chinese law did not contain any provision governing malicious litigation. The court felt that the rights holder's intent should be determinative in deciding whether malicious litigation was committed. The draft of the Patent Law Revision addresses malicious litigation, and

provides for damages: “Where the patentee or interested party, for the purpose of harming another’s interests, without facts or a fair reason, accuses another of infringing their patent right and institutes legal proceedings in the People’s Court or requests the patent administrative department to handle the matter, the patentee should compensate for the damage thus caused to the accused infringer.”
(Source: *China IP News*, June 25, 2008, Page 5.)
